

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

BRIAN CRAWFORD,)	
)	
Plaintiff,)	4:12CV3101
)	
v.)	
)	
SIDNEY REGIONAL MEDICAL)	MEMORANDUM AND ORDER ON
CENTER,)	DEFENDANT'S MOTION TO DISMISS
)	
Defendant.)	
_____)	

On May 18, 2012, the Plaintiff Brian Crawford (Crawford) filed a complaint alleging that the Defendant Sidney Regional Medical Center d/b/a/ Memorial Health Center (SRMC) violated the Electronic Funds Transfer Act, 15 U.S.C. § 1693 et seq. (See generally Compl., ECF No. 1.) On July 12, 2012, SRMC filed a motion to dismiss the complaint for lack of subject matter jurisdiction or, in the alternative, to dismiss the complaint for failure to state a claim upon which relief may be granted. (ECF No. 6.) Crawford then filed an amended complaint on August 2, 2012. (ECF No. 11.)

In pertinent part, Federal Rule of Civil Procedure 15(a)(1) states that “[a] party may amend its pleading once as a matter of course within . . . 21 days after service of a motion under Rule 12(b).” It appears that Crawford’s amended complaint was timely filed in accordance with Rule 15(a)(1).

In light of the filing of Crawford’s amended complaint, I find that SRMC’s motion to dismiss should be denied without prejudice. Cf. Pure Country, Inc. v. Sigma Chi Fraternity, 312 F.3d 952, 956 (8th Cir. 2002) (“If anything, Pure Country’s motion to amend the complaint rendered moot Sigma Chi’s motion to dismiss the original complaint.”). SRMC shall file a response to the amended complaint within fourteen days of the date of this order. See Fed. R. Civ. P. 12(a)(4)(A).

IT IS ORDERED that the defendant’s motion to dismiss, (ECF No. 6), is denied without prejudice.

IT IS FURTHER ORDERED that the defendant shall file a response to the amended complaint within fourteen days of the date of this order.

Dated August 28, 2012.

BY THE COURT

A handwritten signature in black ink, reading "Warren K. Urbom", is written over a horizontal line.

Warren K. Urbom
United States Senior District Judge